

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9360 of 1997

with

SPECIAL CIVIL APPLICATION NO. 837 OF 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

RAVJIBHAI ALIAS RAMBHAI

CHHAKUBHAI

Versus

DISTRICT MAGISTRATE

Appearance:

SCA 9360/97.

MR YS LAKHANI for Petitioner.

MR.HL JANI, AGP for the Respondents.

SCA 837/98

MR . HR PRAJAPATI for the petitioner.

MR. HL JANI, AGP, for the respondents.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 23/07/98

ORAL JUDGEMENT

In these writ petitions under Article 226 of the

Constitution of India, the petitioners , who are detained pursuant to the order of detention dated 27-11-97 passed by the District Magistrate, Rajkot under section 3(1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as "the Act") have challenged the same and since the grounds of detention supplied to the petitioners are also common, these petitions can be conveniently disposed of by this common judgment and order.

After considering the allegations made in the grounds of detention, the detaining authority has recorded a finding that both the petitioners are property grabbers within the meaning of Section 2 (h) of the Act and, therefore, with a view to preventing them from acting in any manner prejudicial to the maintenance of public order, the present orders of detention have been passed against the petitioners which the petitioners have challenged by way of these petitions.

Since both these petitions are required to be allowed on the first contention advanced by the learned Advocates of the petitioners that the petitioners were supplied with the illegible documents with the result the petitioners could not make effective representations, it is not necessary to refer to and deal with the other contentions advanced and to re-narrate the allegations made in the grounds of detention supplied to the petitioners. Reading the grounds of detention, the main allegation against the petitioners is that the petitioners with a view to deceive the purchasers prepared a lay out without obtaining necessary permission from the competent authority and defrauded the concerned persons. Having perused the lay out plan at page 71 of the compilation supplied to the petitioners, frankly speaking the contents shown below the lay out plan are not at all legible . Even if one reads the contents, the details of the lay out plan suggest the portion of the land stated to have been shown in different colours. However, as a matter of fact the petitioners have been supplied with the xerox copies of the lay out plan and therefore the said copies do not show any colour. It was therefore difficult for the petitioners to understand the lay out plan as the same do not contain any markings with colour. In view of this, it was rightly contended by the learned Advocates for the petitioners that the petitioners were denied the right to make effective representations against the detention orders guaranteed under Article 22(5) of the Constitution of India. Therefore, the continued detention of the petitioners is vitiated.

In the result, these petitions are allowed. The detention order dated 27-11-1997 in both these petitions is quashed and set aside. The detenus Ravjibhai Rambhai Chakubhai and Rameshbhai Popatbhai Patel (Sapariya) are ordered to be released forthwith if not required in connection with any other offence. Rule in both these petitions is made absolute accordingly with no order as to costs.

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